

2 Broadway  
New York, NY 10004  
212 878-7000 Tel



## Metropolitan Transportation Authority

State of New York

November 2, 2023

VIA ECF

Hon. Marcia M. Henry  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East, Courtroom 504N  
Brooklyn, New York 11201

RE: McCain v. Wong, et al., 23-CV-03825-RPK-MMH

Dear Judge Henry:

I represent the Metropolitan Transportation Authority (“MTA”), which was dismissed from this action on June 16, 2023. I write in response to Plaintiff’s November 2, 2023, letter (Dkt. No. 18).

The subpoena Plaintiff served on the MTA was not directed to my attention, and I was not aware of it until today. I wish to clarify certain information conveyed to Plaintiff’s counsel by a paralegal handling the MTA’s third-party subpoena responses.

The MTA maintains a police department (“MTAPD”). MTAPD police officers are normally assigned to patrol and secure facilities belonging to the MTA and certain MTA subsidiaries: the Metro-North Commuter Railroad Company, the Long Island Rail Road Company, and the Staten Island Rapid Transit Operating Authority.<sup>1</sup>

The MTA’s statutory affiliate, the New York City Transit Authority (“NYCTA”), operates the city subway systems. Since 1995, by agreement with the City of New York, the New York City Police Department (“NYPD”) has patrolled city subway facilities, for which the NYPD has a dedicated Transit Bureau.<sup>2</sup> The NYCTA no longer maintains its own police force.

MTAPD police officers do not normally patrol city subway facilities. However, MTAPD officers possess full jurisdiction as police officers under New York law. *See* Pub. Auth. Law § 1266-h. And in some circumstances, they may be assigned to perform police work in certain subway facilities, but they do not patrol the subways as a general matter.

Plaintiff’s Complaint (Dkt. No. 1-1) and the subpoena served on the MTA describe an occurrence on August 6, 2021, between 8:00 a.m. and 8:30 a.m., which took place at the Pickles

---

<sup>1</sup> *See* MTA Police, at <https://new.mta.info/agency/mta-police>.

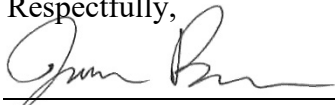
<sup>2</sup> *See* NYPD, Transit, at <https://www.nyc.gov/site/nypd/bureaus/transit-housing/transit.page>.

& Pie Food Market & Deli, 202 Beach 116<sup>th</sup> Street, Queens, New York 11694, which is near the city subway's Rockaway Park-Beach 116 St. station.

Upon being served with the Complaint in this action and again upon being served with the subpoena, the MTA searched its records concerning officer whereabouts. The MTA has no record of any MTAPD officers having been at that location at that time, and the MTA has no reason to expect that any MTAPD officers would have been at that location at that time.<sup>3</sup>

The MTA has no other information at present regarding the identities of the John and Jane Doe defendants. I do not have access to the NYPD police report regarding the incident.

Respectfully,



---

Jason Douglas Barnes  
Sr. Associate Counsel  
jabarnes@mtahq.org  
212-878-7215  
212-878-7398 (fax)

*CC: All Parties, via ECF*

---

<sup>3</sup> Additionally, the MTA Security Department employs revenue fare enforcement agents known as EAGLE Teams who are not part of the MTAPD but also wear uniforms with badge-shaped patches on the shoulder. They are not police officers under state law. They enforce fare violations on certain city busses operated by the MTA's affiliates or subsidiaries, but do not enforce regulations in subways. The MTA likewise has no record of any EAGLE Team agents having been at that location at that time.